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Office of the United States Political Adviser for Japan,
Mitsui Honkan, Muro-machi,
Nihonbashi, Chuo-ku,
Tokyo.

July 10, 1951.

Dear Mr. May:

As you are aware, this Office has given thought in recent months to the question of negotiation of a Treaty of Friendship, Commerce and Navigation with Japan. In this connection, Economic Counselor Boehringer has made available to Mr. Frank H. Ale, Chairman of the Chamber's International Liaison Committee, copies of such treaties signed by the United States Government in recent years with various countries including Italy (1948), Uruguay (1949), Ireland (1950), and Colombia (1951).

The Department of State has now informed this Office that it believes it would be desirable to negotiate a Treaty of Friendship, Commerce and Navigation with Japan immediately upon signature of the peace treaty. The Department is of the opinion that considerable progress can be made informally in technical discussions prior to the signing of the peace treaty in order to expedite negotiation of the FCN Treaty.

The Department has requested this Office to inform the Chamber that suggestions by the Chamber regarding provisions of a possible FCN Treaty with Japan would be welcomed. The Department adds that it would be helpful if it could have the Chamber's suggestions at an early date, with such suggestions to be forwarded through this Office.

For your information, it may be added that the Department is requesting the advice and suggestions of the National Foreign Trade Council, New York, and possibly other representatives of American business.

In closing, I should like to ask that this matter be given no publicity and to suggest that discussion thereon might appropriately be made at our next meeting with representatives of the Chamber, scheduled for July 23. I assume, also, that Mr. Ale will continue to feel free to consult with Mr. Boehringer with respect to the suggestions to be made by the Chamber.

Sincerely yours,

W. J. Sebald

Mr. Richard A. May, President,
American Chamber of Commerce in Japan,
Room 204, Sanshin Building,
10, 1-chome, Yuraku-cho,
Chiyoda-ku, Tokyo.

CHBoehringer:jma

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Observations on the Conclusion of
A Treaty of Friendship, Commerce and Navigation with America

1. It will be recalled that the Japanese Government has orally communicated its readiness promptly to enter into formal negotiations for the conclusion of a necessary treaty to place the Japanese-American trading, maritime and other commercial relations on a stable and friendly basis after the conclusion of the peace. Such a treaty between Japan and America is expected to become the precedent for similar treaties to be concluded hereafter between Japan and the Powers concerned. It is hoped therefore that it will be based on and materialize the following principles and ideals:

(1) That it should materialize the spirit of Article 55 of the United Nations Charter;

(2) That it should help diminish the trade barriers impeding freer trade;

(3) That it should promote conformity with the internationally accepted fair practices in public and private trade and commerce;

(4) That it should generally be based on the principle of national treatment and most favored nation treatment in an unqualified form.

2. With the foregoing requirements and desires in mind, the technical staff of the Ministry of Foreign Affairs has drawn up the appended draft of a Treaty of Friendship, Commerce and Navigation. It has yet to be submitted to the authorities concerned of the Japanese Government or referred to private organizations, and it is by no means the final draft of the Japanese Government. Nor is it intended solely for America as the other contracting party.

3. The Japanese Government has no objection to discussing certain clauses, such as those relating to the introduction of foreign capital and the protection of foreign capital introduced, which are not included in the draft mentioned in the paragraph 2 above, with a view to their inclusion in the text of the treaty or in a protocol, by studying the provisions of the commerce and navigation treaties which have been concluded by America with certain countries since the end of the War and in consideration of the special political and economic circumstances of Japan.

4. The appended draft treaty has no provision for the under-mentioned matters. To make provision for them, the Japanese Government is prepared to discuss a consular service convention apart from the commerce and navigation treaty.

(1) Appointment, functions, powers, privileges, immunities, etc. of consular officials;

(2) Detailed provisions, if necessary, for ships taking refuge and ships in distress.

5. The Japanese Government is prepared to discuss a treaty intended for the prevention of double taxation.

6. The Japanese Government is also desirous of discussing an agreement intended for the mutual reduction of tariff.

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TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN JAPAN AND .....

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TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN JAPAN AND .....

Japan and ....., aspiring to the realization of their common ideals to guarantee peaceful life and to achieve spiritual and cultural development and economic prosperity, and being desirous of strengthening the bonds of peace and friendship traditionally existing between them and of encouraging closer cultural, economic and commercial relations between their peoples, have resolved to conclude a Treaty of Friendship, Commerce and Navigation, based in general upon the principles of national and of most-favored-nation treatment unconditionally accorded, and for that purpose have appointed as their Plenipotentiaries.

Japan: .....;

and,

.....:.....;

Who, having communicated to each other their full powers, found to be in good and due form, have agreed upon the following articles:

ARTICLE I

1. The nationals of either High Contracting Party shall be permitted to enter, sojourn, travel and reside in the territories of the other High Contracting Party, and shall, in all that relates to sojourn, travel and residence, receive treatment no less favorable than the treatment which is or may hereafter be accorded to the nationals of such other High Contracting Party.

2. The nationals of either High Contracting Party shall in any case, with respect to the matters referred to in the above paragraph, receive treatment no less favorable than the treatment which is or may hereafter be accorded to the nationals of any third country.

3. In the enjoyment of the foregoing rights of entrance, sojourn, travel and residence, the nationals of the High Contracting Parties shall conform themselves to the laws, ordinances and regulations of the country, which shall not have any discriminatory effect upon any nation.

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Protocol

Ad. Article I, paragraph 2

It is understood that either High Contracting Party may accord to the nationals of any third country special advantages, upon the basis of reciprocity, with respect to requirements concerning travel documentation.

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ARTICLE II

1. As used in the present Treaty,

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the term "corporations and associations" shall mean corporations and associations, including "zaidanhōjin", companies and partnerships, whether or not with limited liability and whether or not for pecuniary profit, which have been or may hereafter be created or organized under the applicable laws and regulations;

the term "corporations and associations of either High Contracting Party" shall mean corporations and associations being created or organized under the applicable laws and regulations of such High Contracting Party and having their permanent seat in its territories;

the term "corporations and associations of a third country" shall mean corporations and associations being created or organized under the applicable laws and regulations of this third country and having their permanent seat in its territories.

2. Corporations and associations of either High Contracting Party shall be deemed to be corporations and associations thereof and shall be permitted to exercise rights and privileges provided for in the present Treaty. It is, however, understood that in the enjoyment of such rights and privileges, corporations and associations of either High Contracting Party created, organized or participated in, and controlled by nationals, corporations and associations of any third country may be subjected to special measures to be adopted by the other High Contracting Party against nationals, corporations or associations of this third country for the protection of the national interests of such other High Contracting Party.

ARTICLE III

1. The nationals, corporations and associations of either High Contracting Party shall, within the territories of the other High Contracting Party, be permitted to engage in commercial, manufacturing, processing, construction, publishing, scientific, educational, religious, philanthropic and professional activities upon terms no less favorable than those which are or may hereafter be accorded to nationals, corporations and associations of such other High Contracting Party and of any third country.

2. The nationals, corporations and associations of either High Contracting Party shall, with respect to the following activities, receive treatment no less favorable than the treatment which is or may hereafter be accorded to the nationals, corporations and associations of any third country:

(a) exploring for and exploiting mineral resources, and

(b) engaging in fields of economic and cultural activity other than those listed in the preceding paragraph or in subparagraph (a) of the present paragraph.

ARTICLE IV

1. The nationals of either High Contracting Party shall, within the territories of the other High Contracting Party, enjoy freedom of conscience and religion.

2. The nationals of either High Contracting Party shall, within the territories of the other High Contracting Party, be permitted, individually or collectively, to conduct services, either within their own houses or within any other appropriate building, and to bury their dead according to their religious customs, provided that their activities are not contrary to public order and morals.

3. The nationals, corporations and associations of either High Contracting Party shall, within the territories of the other High Contracting Party, be permitted to communicate with other persons inside and outside such territories, to gather and report information for dissemination to the public and to transmit materials to be used abroad for publication by the press, radio, motion pictures and other means upon the same terms as nationals, corporations and associations of the other High Contracting Party.

4. The nationals, corporations and associations of either High Contracting Party shall, with respect to the matters referred to in paragraphs 1, 2 and 3 of this Article, receive treatment no less favorable than the treatment which is or may hereafter be accorded to the nationals, corporations and associations of any third country.

ARTICLE V

ARTICLE V

1. The nationals, corporations and associations of either High Contracting Party shall be permitted, within the territories of the other High Contracting Party, to acquire, own, hire or lease movable or immovable property or interest therein, and to dispose of such property or interest, upon terms no less favorable than those now or hereafter accorded to nationals, corporations and associations of such other High Contracting Party. It shall, however, be understood, that the preceding provisions shall not affect the right of either High Contracting Party to prohibit or restrict the direct or indirect ownership by nationals, corporations and associations of the other High Contracting Party, of the shares in, or instruments of indebtedness of, corporations and associations of such High Contracting Party engaging in activities which are not enumerated in paragraph 1 of Article III.

2. The nationals, corporations and associations of either High Contracting Party, shall, with respect to the matters referred to in paragraph 1 of this Article, receive treatment no less favorable than the treatment which is or may hereafter be accorded to the nationals, corporations, and associations of any third country.

ARTICLE VI

1. The nationals, corporations and associations of either High Contracting Party shall enjoy, throughout the territories of the other High Contracting Party, rights with respect to creation or organization of and participation in corporations and associations of such other High Contracting Party, upon terms no less favorable than those now or hereafter accorded to nationals, corporations and associations of any third country.

Corporations and associations of either High Contracting Party, created, organized or participated in by nationals, corporations and associations of the other High Contracting Party pursuant to the rights enumerated in this paragraph, shall be permitted to exercise the functions for which they are created or organized upon terms no less favorable than those now or hereafter accorded to corporations and associations that are created, organized or participated in by nationals, corporations and associations of any third country.

2.

2. The nationals, corporations and associations of either High Contracting Party shall be permitted, within the territories of the other High Contracting Party, to create, organize and participate in corporations and associations of such other High Contracting Party for engaging in activities enumerated in paragraph 1 of Article III of the present Treaty upon terms no less favorable than those now or hereafter accorded to nationals, corporations and associations of such other High Contracting Party.

Corporations and associations, created, organized or participated in by nationals, corporations or associations of either High Contracting Party pursuant to the foregoing rights, shall be permitted to engage in the activities enumerated in paragraph 1 of Article III of the present Treaty upon terms no less favorable than those now or hereafter accorded to any of corporations and associations of the other High Contracting Party, created, organized or participated in by its own nationals, corporations and associations.

ARTICLE VII

1. The nationals of either High Contracting Party shall receive, within the territories of the other High Contracting Party, the constant and complete protection and security for their persons and property. In so far as the term "nationals" in this paragraph is applicable in relation to property, it shall be construed to include corporations and associations.

2. The dwellings, warehouses, factories, shops, and other places of business, and all premises thereto appertaining, of the nationals, corporations and associations of either High Contracting Party, located in the territories of the other High Contracting Party, shall not be subject to unlawful entry, visit or search, nor shall any books, papers or accounts therein be unlawfully examined or inspected.

3. The property or enterprises of nationals, corporations and associations of either High Contracting Party shall not, within the territories of the other High Contracting

Party

Party, be taken for public use or ownership or be placed under public control without due process of law or without just compensation. Either High Contracting Party shall assure the withdrawal, within a reasonable period, of the compensation referred to in the preceding sentence, in foreign exchange in the currency of the other High Contracting Party.

4. The nationals, corporations and associations of either High Contracting Party shall within the territories of the other High Contracting Party receive, with respect to the matters enumerated in paragraphs 1, 2 and 3 of this Article, treatment no less favorable than that which is or may hereafter be accorded to nationals, corporations and associations of the other High Contracting Party and no less favorable than that which is or may hereafter be accorded to nationals, corporations and associations of any third country.

5. The property and enterprises of corporations and associations of either High Contracting Party created, organized or participated in by nationals, corporations and associations of the other High Contracting Party shall not, within the territories of the former High Contracting Party, be taken for public use or ownership or placed under public control without due process of law or without just compensation. The foregoing property and enterprises shall, with respect to the foregoing matters, receive treatment no less favorable than that which is or may hereafter be accorded to corporations and associations created, organized or participated in by nationals, corporations and associations of the former High Contracting Party and no less favorable than that which is or may hereafter be accorded to corporations and associations created, organized or participated in by nationals, corporations and associations of any third country.

ARTICLE VIII

The nationals, corporations and associations of either High Contracting Party, shall, within the territories of the other High Contracting Party, be permitted, in pursuit

or

or defense of their rights, to gain access to courts of justice and administrative tribunals of all kinds and in all degrees of jurisdiction, and to choose and employ lawyers and representative upon terms no less favorable than the terms which are or may hereafter be accorded to the nationals, corporations and associations of such other High Contracting Party and no less favorable than those which are or may hereafter be accorded to the nationals, corporations and associations of any third country. Corporations and associations of either High Contracting Party, shall not, in the enjoyment of the protection under the present Article, within the territories of the other High Contracting Party, be required to register or to keep any establishment therein.

ARTICLE IX

1. The nationals of either High Contracting Party shall be exempt from all training or service in the armed forces of the other High Contracting Party, and shall also be exempt from all contributions in money or in kind imposed in lieu thereof.

2. The nationals, corporations and associations of either High Contracting Party shall be exempt, within the territories of the other High Contracting Party, from all forced war-loans and any military exaction, requisition, or compulsory billeting.

3. With respect to the matters referred to in paragraphs 1 and 2 of this Article, the nationals, corporations and associations of either High Contracting Party shall receive treatment no less favorable than the treatment which is or may hereafter be accorded to the nationals, corporations and associations of any third country.

ARTICLE X

1. The nationals, corporations and associations of either High Contracting Party shall not, within the territories of the other High Contracting Party, be obligated

to

to pay internal taxes, fees and charges imposed upon or applied to income, capital, transactions, activities or any other object, other or higher than those which are or may hereafter be imposed upon the nationals, residents, corporations and associations of any third country, nor shall be subjected to the requirements with respect to the levy and collection thereof more burdensome than those borne by the nationals, residents, corporations and associations of any third country.

2. The nationals of either High Contracting Party residing within the territories of the other High Contracting Party and the nationals, corporations and associations of either High Contracting Party engaged in economic and cultural activities within the territories of the other High Contracting Party, shall receive, with respect to the matters referred to in the preceding paragraph, treatment no less favorable than that which is or may hereafter be accorded to the nationals, corporations and associations of such other High Contracting Party.

3. In the case of corporations and associations specified in the preceding paragraph and in the case of the nationals of either High Contracting Party engaged in economic and cultural activities within the territories of the other High Contracting Party but not resident therein, such other High Contracting Party shall not impose or apply any internal tax, fee or charge upon any income, capital or other basis in excess of that reasonably allocable or apportionable to such territories, nor grant deductions and exemptions less than those reasonably allocable or apportionable to such territories.

4. It is, however, understood that either High Contracting Party may accord to the nationals, corporations and associations of any third country spedial advantages by virtue of an agreement with such country for the avoidance of double taxation or the mutual protection of revenue.

ARTICLE XI

1. Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation.

2. Vessels navigating under the flag of either High Contracting Party, and carrying the papers required by the laws and regulations in proof of nationality, shall be deemed to be vessels of such High Contracting Party both on the high seas and within the ports, places and waters of the other High Contracting Party.

3. The term "merchant vessels" as used in the present Treaty shall be construed to include all vessels engaged in commercial activities, whether privately owned or operated, or publicly owned or operated.

ARTICLE XII

The merchant vessels of either High Contracting Party shall have free access with their cargoes to all ports, places and waters of the other High Contracting Party which are or may hereafter be open to foreign commerce and navigation.

In the enjoyment of the foregoing liberty, the merchant vessels of either High Contracting Party shall receive treatment no less favorable than the treatment which is or may hereafter be accorded to the merchant vessels of any third country.

ARTICLE XIII

1. The merchant vessels of either High Contracting Party shall in all places, ports and waters of the other High Contracting Party to which access is permitted by the preceding Article receive treatment no less favorable than the treatment which is or may hereafter be accorded to the merchant vessels of the other High Contracting Party with respect to the use of the said places, ports and waters, the stationing of the merchant vessels, loading and unloading of their cargoes, supply to the merchant vessels, and all other operations which shall be conducted by the merchant vessels, and all procedures and provisions to be applied generally to merchant vessels, or their crew or cargoes.

2. No duties of tonnage, harbour, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges, of whatever kind or denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind, shall be imposed upon the merchant

vessels

vessels of either High Contracting Party except those which shall, in like cases, equally and under the same conditions be imposed upon the merchant vessles of the other High Contracting Party.

3. The merchant vessels of either High Contracting Party shall enjoy the rights prescribed in the preceding paragraphs 1 and 2, irrespective of the port of departure or the port of destination, and irrespective of the origin or the destination of the cargo, and shall, with respect to the enjoyment of the rights prescribed in the preceding paragraphs 1 and 2, receive treatment no less favorable than the treatment which is or may hereafter be accorded to the merchant vessels of any third country.

ARTICLE XIV

The merchant vessels of either High Contracting Party shall, in all ports, places and waters of the other High Contracting Party, be subject to the jurisdiction of such other High Contracting Party.

It is, however, understood that the foregoing paragraph shall not extend to the matters relating to the internal discipline of the merchant vessels and to the disorder arising on board the merchant vessels, unless persons other than the officers and crew are parties thereto, or unless the consular officers of the High Contracting Party to which the merchant vessels belong or the master of the merchant vessel make a request for the aid of the authorities of such other High Contracting Party.

ARTICLE XV

1. The vessels of one High Contracting Party shall, in case of shipwreck, stranding or damages at sea on the coasts of the other High Contracting Party, or of forced putting in a port, place or waters of such other High Contracting Party which is open or is not open to foreign commerce and navigation, enjoy the same assistance and protection as are in like cases enjoyed by the vessels of such other High Contracting Party, and shall not be subjected to any duties or charges other than such as would be payable in like cases by the vessels of such other High Contracting Party.

It is, however, understood that the cargoes of the vessels of the one High Contracting Party or everything that has been saved from

such

such vessels or cargoes shall be subject to the payment of ordinary customs duty in case they are intended for internal consumption of the other High Contracting Party.

2. With respect to the matters prescribed in the foregoing paragraph, the vessels and cargoes of either High Contracting Party shall receive treatment no less favorable than the treatment which is or may hereafter be accorded to the vessels and cargoes of any third country.

ARTICLE XVI

The marchant vessels of either High Contracting Party shall have the right, upon terms no less favorable than those now or hereafter accorded to the merchant vessels of the other High Contracting Party or of any third country, to carry all merchandise and passengers that may be carried by vessel to or from the territories of such other High Contracting Party; and such vessels, cargoes and passengers shall enjoy the same favors, advantages and privileges as, and shall not be subjected to any other or higher duties, charges or restrictions than, the vessels and their cargoes and passengers of such other High Contracting Party, or the vessels and their cargoes and passengers of any third country.

ARTICLE XVII

1. The coasting trade and inland navigation are excepted from the provisions of the present Treaty.

It is, however, understood that if either High Contracting Party accord any rights or privileges of coasting trade or inland navigation to merchant vessels of any third country, the same rights or privileges shall be accorded upon the same terms and conditions to the merchant vessels of the other High Contracting Party.

2. The merchant vessels of either High Contracting Party may proceed from one port, place and waters to another port, place or waters of the other High Contracting Party which are or may hereafter be open to foreign commerce and navigation, either for the purpose of landing the whole or part of their cargoes, or passengers brought from abroad, or of taking on board the whole or part of their cargoes or passengers for a foreign destination.

ARTICLE XVIII

ARTICLE XVIII

1. In all matters relating to (a) customs duties and charges of every kind imposed on or in connection with importation or exportation, (b) the method of levying such duties and charges, and (c) the rules, formalities and conditions in connection with importation and exportation, either High Contracting Party shall accord to articles the growth, produce or manufacture of the other High Contracting Party, from whatever place arriving, or to articles destined for exportation to the territories of such other High Contracting Party, by whatever route, treatment no less favorable than the treatment now or hereafter accorded to like articles, the growth, produce or manufacture of, or destined for, any third country.

2. With respect to the matters referred to in paragraph 1 of this Article, the nationals, corporations and associations of either High Contracting Party shall be accorded, within the territories of the other High Contracting Party, treatment no less favorable than the treatment which is or may hereafter be accorded to the nationals, corporations and associations of such other High Contracting Party, or of any third country.

3. Either High Contracting Party may require certificates of origin attesting that the article imported is the article, the growth, produce or manufacture of the other High Contracting Party. If either High Contracting Party requires certificates of origin of imported articles, the requirements imposed therefor shall be reasonable and shall not be such as to constitute an unnecessary hindrance to indirect trade.

ARTICLE XIX

1. No prohibition or restriction shall be instituted or maintained by either High Contracting Party on the importation of any article the growth, produce or manufacture of the other High Contracting Party, or on the exportation of any article destined for the territories of the other High Contracting Party, unless the importation of the like article the growth, produce or manufacture of all third countries, or the exportation of the like article destined for the territories of all third countries, respectively, is similarly prohibited or restricted.

2. Either High Contracting Party which applies a quantitative regulation involving allotment to any third country with respect to any article in which the other High Contracting Party has an important interest shall afford to the commerce of such other High Contracting Party a share proportionate to the amount by quantity or value supplied by

such

such other High Contracting Party during a previous representative period, due consideration being given to any special factors affecting the trade in the article.

3. The provisions of the preceding paragraphs 1 and 2 shall not preclude either High Contracting Party from applying quantitative restrictions on imports that have effect equivalent to exchange restrictions applied by either High Contracting Party pursuant to Article XXII of the present Treaty.

4. The provisions of this Article shall apply to any tariff quota instituted or maintained by either High Contracting Party and, in so far as applicable, the principles of paragraph 2 of this Article shall also extend to export restrictions.

ARTICLE XX

1. In all matters relating to (a) taxes and other internal charges on articles and (b) laws, ordinances, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of articles, either High Contracting Party shall accord to articles the growth, produce or manufacture of the other High Contracting Party, from whatever place arriving, or to articles destined for the territories of such other High Contracting Party, by whatever route, treatment no less favorable than the treatment now or hereafter accorded to like articles the growth, produce or manufacture of, or destined for the territories of any third country.

2. With respect to all matters referred to in paragraph 1 of this Article, articles the growth, produce or manufacture of either High Contracting Party, imported into the territories of the other High Contracting Party, shall receive treatment no less favorable than the treatment which is or may hereafter be accorded to like article the growth, produce or manufacture of such other High Contracting Party.

3. With respect to all matters referred to in paragraph 1 of this Article, or relating to export bounties, customs drawbacks and the warehousing of articles intended for exportation, the nationals, corporations and associations of either High Contracting Party shall, within the territories of the other High Contracting Party, receive treatment no less favorable than the treatment which is or may hereafter be accorded to the nationals, corporations and associations of such other High Contracting Party or any third country.

4. With

4. With respect to all matters referred to in paragraph 1 of this Article, articles grown, produced or manufactured within the territories of one High Contracting Party in whole or in part by nationals, corporations and associations of the other High Contracting Party, or by corporations and associations of the one High Contracting Party shall, within such territories, receive treatment no less favorable than the treatment now or hereafter accorded to like articles grown, produced or manufactured therein in whole or in part by nationals, corporations of the one High Contracting Party, created, organized or participated in by nationals, corporations and associations of any third country.

ARTICLE XXI

1. Persons, baggage, goods, and also merchant vessels and other means of transport, shall be deemed to be in transit across the territory of one of the High Contracting Parties, when the passage across such territory with or without trans-shipment, warehousing, breaking bulk, or change in the mode of transport, is only a portion of a complete journey beginning and terminating beyond the frontier of such High Contracting Party. Traffic of this nature is termed in this Article "traffic in transit."

2. Either High Contracting Party shall recognize freedom of transit through the territory of such High Contracting Party, via the routes most convenient for international transit, irrespective of the nationality of persons or merchant vessels, or the circumstances relating to the ownership of goods or of merchant vessels or of other means of transport, or the place of origin, departure, entry, exit or distination, for traffic in transit to or from the territory of the other High Contracting Party.

3. Either High Contracting Party may require that traffic in transit to or from the other High Contracting Party, be entered at the proper customhouse, but, except in cases of failure to comply with applicable customs laws, ordinances and regulations, such traffic shall not be subject to any unnecessary delays or restrictions and shall be exempt from customs duties and from all transit duties or other charges imposed in respect of transit, except charges commensurate with administrative expense entailed by transit or with the cost of services rendered.

4. All charges, regulations and formalities imposed by either High Contracting Party on traffic in transit to or from the other High

Contracting Party shall be reasonable, having regard to the conditions of the traffic.

5. With respect to all charges, regulations and formalities in connection with transit either High Contracting Party shall accord to traffic in transit to or from the territory of the other High Contracting Party treatment no less favorable than the treatment accorded to traffic in transit to or from the territory of any third country.

6. The provisions of this Article shall not apply to the operation of aircraft in transit, but shall apply to air transit of persons, baggage and goods.

ARTICLE XXII

1. The treatment prescribed in this Article shall apply to all forms of control of financial transactions, including (a) limitations upon the availability of media necessary to effect such transactions, (b) rates of exchange, and (c) prohibitions, restrictions, delays, taxes, charges and penalties on such transactions; and shall apply whether a transaction takes place directly, or through an intermediary in another country. As used in this Article, the term "financial transactions" means all international payments and transfers of funds effected through the medium of currencies, securities, bank deposits, dealings in foreign exchange or other financial arrangements, regardless of the purpose or nature of such payments and transfers.

2. Either High Contracting Party shall accord to financial transactions between the territories of such High Contracting Party and the territories of the other High Contracting Party treatment no less favorable than that now or hereafter accorded to like transactions between the territories of such High Contracting Party and the territories of any third country.

3. Either High Contracting Party shall accord to nationals, corporations and associations of the other High Contracting Party treatment no less favorable than that now or hereafter accorded to nationals, corporations and associations of such High Contracting Party or of any third country, with respect to financial transactions between the territories of such High Contracting Party and the territories of such other High Contracting Party or of any third country.

4. In

4. In general, any control imposed by either High Contracting Party over financial transactions shall be so administered as not to influence disadvantageously the competitive position of the commerce or investment of capital of the other High Contracting Party, in comparison with the commerce or investment of capital of any third country.

5. Nothing in this Article shall be construed to prevent the adoption or enforcement by either High Contracting Party of exchange restrictions:

(a) that are necessary to prevent its monetary reserves from falling to a low level or to effect a moderate increase in low monetary reserves; or
(b) that are necessary to secure the procurement of goods and services essential to the health and welfare of its people.

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Protocol

Ad. Article XIX and XXII

It is understood that either High Contracting Party may, until the general convertibility of currencies is restored, deal with foreign exchange stringency by adopting such measures of exchange restrictions, and/or of quantitative restrictions of imports having effect equivalent to such exchange restrictions, as may be necessary from time to time in a manner which departs from the provisions of the paragraphs 2 and 4 of Article XXII and of paragraphs 1 and 2 of Article XIX, respectively, provided that such measures shall be limited strictly to the extent necessary to assure the effective use of inconvertible currencies held or to be held by such High Contracting Party, and /or to prevent monetary reserves of such High Contracting Party from falling to a low level or to effect a mederate increase in low monetary reserves, and provided further that such measures shall be so designed as to expedite the attainment of a better external financial position or balance of payments position of such High Contracting Party which will obviate the necessity of such measures.

ARTICLE XXIII

Either High Contracting Party shall promptly publish laws, regulations and administrative rulings of general application pertaining to rates of duty, taxes or other charges, to the classification or valuation of articles for customs purposes, and to requirements, restrictions or prohibitions on imports and exports or to the transfer of payments therefor, or affecting their sale, distribution or use, in such a manner as to enable the other High Contracting Party, as well as traders of both High Contracting Parties, to become acquainted with them and shall administor them in a uninform, impartial and reasonable manner.

New administrative requirements, restrictions or prohibitions affecting imports shall not go into effect before the expiration of thirty(30)days after publication, or alternatively, shall not apply to articles en route at the time of publication.

ARTICLE XXIV

1. The value for customs purposes of article imported to the territories of one High Contracting Party from the territories

of

of the other High Contracting Party shall be based on the actual value of the imported article and shall not be based on the value of article originating in the territories of such one High Contracting Party or on arbitrary or fictitious values.

The term "actual value" as used in this Article means the price at which, at a time and place determined by the legislation of the importing High Contracting Party, and in the ordinary course of trade, such or like article is sold or offered for sale under fully competitive conditions.

2. When the actual value is not ascertainable in accordance with the preceding paragraph, the value for customs purposes shall be based on the nearest ascertainable equivalent of such value.

3. The value for customs purposes of any article imported to the territories of one High Contracting Party from the territories of the other High Contracting Party shall not include the amount of any internal tax, applicable within the territories of such other High Contracting Party, from which the Article imported to the territories of such one High Contracting Party has been exempted or has been or will be relieved by menas of refund.

4. Where it is necessary for the purpose of this Article for either High Contracting Party to convert into its own currency a price expressed in the currency of the other High Contracting Party, the conversion rate of exchange to be used shall be based on the official rate of exchange effective between the currencies of both High Contracting Parties, or, in the absence of such official rate, shall reflect effectively the current value of such currencies involved in commercial transactions.

ARTICLE XXV

1. Either High Contracting Party undertakes that if it establishes or maintains a state enterprise, or grants to any enterprise, formally or in effect, exclusive privileges, with regard to the importation, exportation, purchase, sale, distribution or production of any article, such an enterprise shall make its purchases of articles the growth, produce or manufacture of the other High Contracting Party and its sales of articles destined for such other High Contracting Party solely in accordance with commercial considerations, including prices, quality, availability, marketability, transportation and terms of purchase or sale, to the nationals, corporations and associations and to the commerce of such other High Contracting Party.

2.

2. Either High Contracting Party undertakes that if it establishes or maintains a state enterprise, or grants to any enterprise, formally or in effect, exclusive privileges, with regard to the sale of any service, such an enterprise shall be governed solely by the commercial considerations in the treatment accorded to the nationals, corporations and associations of the other High Contracting Party.

3. Either High Contracting Party, in the awarding of concessions and other contracts, and in the purchasing of supplies for governmental uses, shall accord equitable treatment to the nationals, corporations and associations and to the commerce of the other High Contracting Party as compared with that accorded to the nationals, corporations and associations and commerce of any third country.

Protocol

No enterprise of either High Contracting Party which is publicly owned or controlled shall, if it engages in commercial, manufacturing, processing, shipping or other business activities within the territories of the other High Contracting Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.

ARTICLE XXVI

The two High Contracting Parties agree that business practices which restrain competition, limit access to markets or foster monopolistic control, and which are engaged in or made effective by one or more private or public commercial enterprises or by combination, agreement or other arrangement among public or private commercial enterprises may have harmful effects upon the commerce between their respective territories. Accordingly, either High Contracting Party agrees upon the request of the other High Contracting Party to consult with respect to any such practices and to take such measures as it deems appropriate with a view to eliminating such harmful effects.

ARTICLE XXVII

ARTICLE XXVII

Either High Contracting Party may, on compliance with the laws, ordinances and regulations of such High Contracting Party apply prohibitions of the importation into or seizures within the territories of such High Contracting Party, (a) on the articles bearing a false indication of origin in which such High Contracting Party or a place situated therein shall be directly or indirectly indicated as being the country or a place of origin, or (b) on the articles using trade names in such manner as to misrepresent their true origin, to the detriment of the distinctive regional or geopraphical names of articles, the growth, produce, manufacture of such High Contracting Party which are protected by the legislation of such High Contracting Party, whatever relations these articles shall have with the commerce of the other High Contracting Party. And such High Contracting Party may demand to take steps necessary for prohibitions of the transactions by means of such unfair measures in case such articles, the growth, produce, manufacture of such other High Contracting Party are objects of the transactions in the territories of such other High Contracting Party or of any third country.

ARTICLE XXVIII

With respect to obtaining and maintaining patents of invention, and with respect to rights in trade marks, trade names and industrial property of every kind, nationals, corporations and associations of either High Contracting Party shall be accorded, within the territories of the other High Contracting Party, treatment no less favorable than that which is or may hereafter be accorded to nationals, corporations and associations of such other High Contracting Party, or of any third country.

ARTICLE XXIX

1. The nationals, corporations and associations of either High Contracting Party engaged in manufacturing or commerce within the territories of such High Contracting Party or of any third country may, within the territories of the other High Contracting Party, personally or by means of commercial travelers, make purchases or collect orders with or without samples.

2.

2. Commercial travelers representing nationals, corporations and associations of either High Contracting Party engaged in business within the territories thereof shall, upon their entry into and sojourn within the territories of the other High Contracting Party and on depairture therefrom, be accorded treatment no less favorable than the treatment now or hereafter accorded to commercial travelers of any third country in respect of the customs and other relevant matters, and subject to the exceptions in paragraph 4 of Article X, in respect of all taxes and charges applicable to them, their samples and the taking of orders.

ARTICLE XXX

Articles imported from the territories of either High Contracting Party to the territories of the other High Contracting Party as samples shall, in such other High Contracting Party, be temporarily admitted free of duty on compliance with the customs regulations and formalities established to assure their re-exportation or, if not re-exported within the period allowed by law, the payment of the prescribed customs duties. But the foregoing privilege shall not extend to articles which, owing to their quantity or value, cannot be considered as samples, or which, owing to their nature, could not be identified upon re-exportation. The determination of the question of the qualification of samples for duty-free admission rest with the competent authorities of the place where the importation is effected.

ARTICLE XXXI

1. Nothing in the present Treaty shall be construed to prevent the adoption or enforcement by either High Contracting Party of measures:

(1) imposed on moral or humanitarian grounds;

(2) necessary to the enforcement of laws, ordinances and regulations relating to public safety;

(3) necessary to protect public health or to protect animals or plants against disease, insects and harmful parasites;

(4) relating to prison-made goods;

(5) imposed for the protection of natural treasures of artistic, historic or archaeological value;

(6) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption; or

(7) imposed for the prevention of deceptive or unfair practices;

provided that, under like circumstances and conditions, such High Contracting Party shall not apply arbitrary or unjustifiable discrimination against the other High Contracting Party or against the nationals, corporations, associations, vessels or commerce thereof, in favor of any third country or the nationals, corporations, associations, vessels or commerce thereof.

2. Nothing in the present Treaty shall be construed to prevent the adoption or enforcement by either High Contracting Party of measures;

(1) relating to the importation and exportation of gold and silver;

(2) relating to the production of and traffic in arms, ammunition and implements of war; or

(3) necessary in pursuance of obligations for the maintenance of international peace and security, and for the protection of the essential security interests of the country.

3. The provisions of the present Treaty according treatment no less favorable than the treatment accorded to any third country shall not apply to advantages accorded by either High Contracting Party;

(1) to its national fisheries;

(2) to adjacent countries in order to facilitate the local traffic for inhabitants and regarding products of a zone not exceeding fifteen kilometers in width on each of the frontier;

(3) by virtue of a customs union or a free trade area of which either High Contracting Party become a member, or of an interim agreement leading to the formation of a customs union or free trade area which either High Contracting Party may enter into, after having informed the other High Contracting Party of its plans in order to afford such other High Contracting Party adequate opportunity to express its views thereon. The interim agreement referred to in the preceding sentence shall include a plan and definite schedule for the formation of a customs union or free trade area.

ARTICLE XXXII

The two High Contracting Parties shall, by mutual agreement, refer to conciliation or arbitration any dispute between the High Contracting Parties as to the interpretation or the application of the present Treaty, which shall not satisfactorily be adjusted by diplomacy. The High Contracting Parties shall submit any dispute, which shall not be adjusted by conciliation, or of which no such agreement can be reached between the High Contracting Parties as to arbitration or the International Court of Justice to which such dispute shall be referred, shall have jurisdiction over question whether the dispute relates to the interpretation or the application of the Treaty.

ARTICLE XXXIII

1. The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at ..... as soon as possible.

2. The present Treaty shall enter into force on the day of the exchange of ratifications, and shall continue in force for a period of ten years from that day.

3. Unless one year before the expiration of the aforesaid period of ten years either High Contracting Party shall have given written notice to the other High Contracting Party of intention to terminate the present Treaty upon the expiration of the aforesaid period, the Treaty shall continue in force thereafter until one year from the date on which written notice of intention to terminate it shall have been given by either High Contracting Party.

IN

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

DONE in duplicate, in the Japanese and ..... languages, both equally authentic, at ....., this ..... day of the ..... month in the ..... year of Showa, corresponding to the ..... day of .....in the .....year of the Christian Era.